

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:16-CV-00391-F

RICHARD C. FOY,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

Before the court are the following:

- (1) the Memorandum and Recommendation ("M&R") [DE-7] of United States Magistrate Judge Robert B. Jones, Jr., regarding *pro se* Plaintiff Richard C. Foy's motion for leave to proceed *in forma pauperis* [DE-1];
- (2) Plaintiff's Motion to Recuse [DE-4];
- (3) his Motion to Expedite Consideration [DE-6]; and
- (4) his Motion to Petition the Courts [DE-8].

I. Discussion

In his complaint, Plaintiff alleges that the United States of America; Barack Hussien Obama, President of the United States of America; the U.S. Department of Justice; the U.S. Department of Health and Human Services; and the U.S. Federal Communications Commission have violated the First, Fifth, Ninth, and Fourteenth Amendments to the U.S. Constitution and 28 U.S.C. § 4101. Compl. [DE-1-1] at 2. Further, Plaintiff requests that this court order the House of Representatives to initiate impeachment proceedings against Barack Obama, order the Department of Justice to proceed against the media for failing to investigate specific government officials, and enter an injunction that stops the City of Raleigh from working on Dorothea Dix Hospital property. *Id.* at 10-11, 13. Finally, Plaintiff seeks monetary relief, including \$100

million in compensatory damages and an unstated amount of punitive damages. *Id.* at 13.

On November 7, 2016, the Magistrate Judge issued a M&R [DE-7], in which he recommended that Plaintiff's case be dismissed for failure to state a cognizable claim. *Id.* at 4. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the M&R and the consequences if they failed to do so. *Id.* at 4.-5. On November 21, 2016, Plaintiff filed objections [DE-8] to the Magistrate Judge's M&R.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with making a *de novo* determination of those portions of the recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1). In the absence of a timely-filed objection, a district court need not conduct a *de novo* review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

In his objections, Plaintiff has failed to set forth any additional facts or arguments that adequately dispute Judge Jones' findings. In fact, Plaintiff's objections reinforce for the court that the complaint fails to state a cognizable claim. Based on a *de novo* review of the record, the court concludes that the M&R should be adopted, the case should be dismissed without prejudice, and all pending motions should be denied as moot.

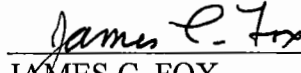
II. Conclusion

For the foregoing reasons, it is ORDERED as follows:

- (1) The court ADOPTS the Magistrate Judge's M&R [DE-7] in its entirety;
- (2) Plaintiff's complaint [DE-1-1] is DISMISSED without prejudice;
- (3) All pending motions [DE-1, -4, -6, -8] are DENIED as moot; and
- (4) The Clerk of Court is DIRECTED to close the case.

SO ORDERED.

This, the 5 day of December, 2016.



JAMES C. FOX
Senior United States District Judge